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U.S. Application No. 10/768,406 Examiner Wood, Art Unit 3632
Response to July 6, 2005 Office Action

RESPONSE

In response to the Office Action dated July 6, 2005, Assignee respectfully requests reconsideration based on the following remarks. Assignee respectfully submits that all pending claims are in condition for allowance.

The United States Patent and Trademark Office (the "Office") objected to the Abstract, responded to Assignee's Traversal of Election of Species, rejected claims 17 and 19 under 35 U.S.C. § 103(a) as being unpatentable over *Witter* (U.S. Patent No. 2,193,215) and *Tardoskegyi* (U.S. Patent No. 3,960,350), rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable over *Witter* in view of *Targoskegyi* and further in view of *Flower* (U.S. Patent No. 2,161,782), rejected claims 20 and 21 over *Witter* in view of *Targoskegyi* and further in view of *Atchley et al.* (2003/0025056A1). The Assignee shows, however, that the pending claims are not fully disclosed in the cited references nor are the pending claims anticipated, nor obviated, by the cited references. Further, the Assignee respectfully submits that the Office has failed to meet its burden of proof under 35 U.S.C. § 103(a). For these reasons and others, the Assignee respectfully submits that the pending claims (claims 17-21) are ready for allowance.

§103 Rejection:

The Office rejected claims 17 and 19 under 35 U.S.C. § 103(a) as being unpatentable over *Witter* (U.S. Patent No. 2,193,215) and *Tardoskegyi* (U.S. Patent No. 3,960,350), rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable over *Witter* in view of *Targoskegyi* and further in view of *Flower* (U.S. Patent No. 2,161,782), rejected claims 20 and 21 over *Witter* in view of *Targoskegyi* and further in view of *Atchley et al.* (2003/0025056A1).

If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations

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must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, however, the combination of *Witter*, *Tardoskegyi*, *Flower*, and/or *Atchley* fails teach or suggest claims 17-21. The Assignee, then, respectfully requests allowance of the pending claims (claims 17-21).

Independent claim 17 discloses a hanging tool support assembly that includes a pair of inverted, parallel J-shaped hangers that include a front hanger and a rear hanger, each hanger includes a free end and a downwardly extending arm substantially parallel to the free end. The downwardly extending arm of the front hanger includes a top portion extending downward to a vertically adjustable middle portion that extends downward to a bottom portion. The downwardly extending arm of the rear hanger includes another top portion extending downward to a movable bottom portion. The hanging tool support assembly further includes a tool support base plate having a means to secure a tool, and the tool support base plate is attached to the bottom portion of the front hanger and to the movable bottom portion of the rear hanger. See independent claim 17 presented below.

[c17] (Original) A hanging tool support assembly comprising:

a pair of inverted, parallel J-shaped hangers, the pair of hangers comprising a front hanger and a rear hanger, each hanger having a free end and a downwardly extending arm substantially parallel to the free end, wherein *the downwardly extending arm of the front hanger comprises a top portion extending downward to a vertically adjustable middle portion, the adjustable middle portion extending downward to a bottom portion and wherein the downwardly extending arm of the rear hanger comprises another top portion extending downward to a movable bottom portion*; and

a tool support base plate having a means to secure a tool, the tool support base plate attached to the bottom portion of the front hanger and to the movable bottom portion of the rear hanger.

U.S. Patent Application No. 10/768,406, independent claim 17 (emphasis added by Assignee).

Examiner Wood asserts that:

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Witter discloses a hanging tool support assembly comprising a pair of inverted, parallel J-shaped hangers (figure 1) comprising a front and rear hanger (left and right hanger); the front hanger having a top portion (below 37), a vertically adjustable middle portion (near 16), and a bottom portion (below 17); the rear hanger comprises a top portion and a movable bottom portion; a tool support base plate (45), a means to secure (21 and 18), an attachment means (37).

Office Action (mailed on July 6, 2005), p. 4. Further, Examiner Wood fails to identify the "movable bottom portion," and, therefore does not satisfy the burden of proof set forth in M.P.E.P. § 2143 – that is "movable bottom portion" is not taught or otherwise disclosed by the cited art. And further, the alleged vertically adjustable middle portion (near 16) is not "vertically" adjustable – that is, the lower member 10 moves in a zig-zag fashion along from one cam 13 along slot 12 to shoulder 14. *See, U.S. Patent No. 2,193,215*, Figure 1 and column 2. Still further, the alleged support base plate (45) is described in *Witter* as "a broadly U-shaped spacer plate 45 through which the bolt 21 passes, this plate safeguarding against distortion of the wire [17] when the nut 23 is screwed down." *U.S. Patent No. 2,193,215*, (emphasis added by Assignee). And, yet further, the alleged means to secure (21 and 18) are described in *Witter* as "a clamping bolt 21 which passes between the two runs of the wire [17] and which is furnished with washers 22 and 23 and with a nut 24 to enable it to perform its function" where reference number 18 is "a deflected U-shaped bend 18 formed in them at their lower end." *Id.*

Claim 17, and consequently, dependent claim 19, are not taught or otherwise disclosed by *Witter*. *Witter* describes an extensible, pendant hanger. As disclosed in *Witter*:

... [T]he hanger consists of two elongated members 10 and 11 which occupy a pendant, overlapping position when the device is in use, the lower member 10 being vertically movable to various adjusted positions in relation to the stationary member 11 whereby it is supported. Said member 11 has an elongated guide opening or slot 12 extending along its mid-width portion, one edge of said slot being shaped to form a series of longitudinally spaced, hook-like shoulders 13 and the opposite edge of said slot being so shaped as to provide a corresponding spaced series of cams 14 which are positioned to guide a suitable hook element occupying said slot into an underlying position in relation to the shoulder selected therefore. In the drawing, this hook element is shown as the looped upper end 16 of the wire 17 of which the particular upper hanger element shown is composed, but it is to be understood that said shoulders of the upper hanger member are

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adapted to cooperate with various hanger hooks, wire loops, and the like that it may be desired to use in conjunction with them.

Said wire 17 is shown formed into a continuous loop having two mated limbs or runs which have a deflected U-shaped bend 18 formed in them at their lower end gripping the horizontal lower bar 20 under the urge of a clamping bolt 21 which passes between the two runs of the wire and which is furnished with washers 22 and 23 and with a nut 24 to enable it to perform its function. Each limb or run of the wire 17 is in a parallel, closely spaced relation to the other, apertured means shown as spacing loops 30 being used to secure this result. Said loops 30 are carried by the strip 11 and project from opposite faces thereof. By preference and as shown said loops 30 are in one piece. They guide the wire member in its movement from one adjusted position to another and also keep it aligned with the strip 11. When the looped wire 17 is moved downwardly along the slot its upper end portion is deflected by each cam edge 14 into a position superjacent to the next shoulder or seat there-below.

The upper end portion 35 of the strip 11 is shown twisted through an angle of ninety degrees in order to bring it into a proper angular relation to the upper supporting bar 36. *This part of the strip 11 is hooked around said bar and may be clamped thereto by means of the bolt 37 and nut 38.*

The slot 12 in the strip 11 is of a zig-zag character but is sufficiently wide to enable the user readily to slide the looped lower end of the wire therealong. Each portion of said slot which is shouldered as has already been stated, is directed at an acute angle to the direction of the length of the slot in order safely to hold the strip 11 and wire 10 in definite adjusted relations to each other.

The washers 23 may be shaped as plates having deflected end portions 23x to aid in holding the wire in place. *There is also shown a broadly U-shaped spacer plate 45 through which the bolt 21 passes, this plate safeguarding against distortion of the wire when the nut 23 is screwed down.*

U.S. Patent No. 2,193,215, column 1, line 55 thru column 3, line 12 (emphasis added by Assignee).

Consequently, *Witter* fails to even remotely describe or suggest a pair of inverted, parallel J-shaped hangers that include a front hanger and a rear hanger wherein the front hanger includes a top portion extending downward to (1) *a vertically adjustable middle portion* and wherein the downwardly extending arm of the rear hanger includes another top portion extending downward to (2) a movable bottom portion. Furthermore, *Witter* fails to remotely describe or suggest (3) a tool support base plate having (4) a means to secure a tool, and the tool support base plate (5) is

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attached to (a) the bottom portion of the front hanger and to (b) the movable bottom portion of the rear hanger. *Tardoskegyi* does not cure these and other deficiencies of *Witter*.

Examiner Wood asserts that:

Witter discloses all of the limitations of the claimed invention except for the base plate attached to the bottom portion the front hanger and to the bottom portion of the rear hanger. *Tardoskegyi* teaches that it is known to have a hanging tool support assembly comprising a pair of inverted, parallel U-shaped hangers (54) comprising a front and rear hanger (left and right hanger); each hanger having a free end and a downwardly extending arm wherein the front hanger having a top portion (between 57 and 48), a vertically adjustable middle portion (51 being female cylinder and threaded portion is the male shaft), and a bottom portion (52); the rear hanger comprises a top portion (between 57 and 48) and a movable bottom portion (52); a tool support base plate (18), a means to secure (15), an attachment means (40).

Office Action, pp. 5 and 6. First, *Tardoskegyi* does not teach or otherwise suggest a pair of *inverted*, parallel U-shaped hangers – rather, *Tardoskegyi* illustrates a pair of horizontal arms, each arm having a threaded portion to pass through a bracket wherein the horizontal arm is secured to the bracket with a nut, and FIG. 1 of *Tardoskegyi* illustrates horizontal, U-shaped portions that are described in the specification as “horizontal U-shaped intermediate portion.” See, U.S. Patent No. 3,960,350, FIG. 1 and col. 3, lines 64-69.

Second, and more important, in regards to independent claim 17 and dependent claim 19, *Tardoskegyi* does not teach or otherwise suggest a hanging tool support assembly that includes a pair of inverted, parallel J-shaped hangers that include a front hanger and a rear hanger, each hanger includes *a free end* and *a downwardly extending arm substantially parallel to the free end* wherein the downwardly extending arm of the front hanger includes a top portion extending downward to *a vertically adjustable middle portion that extends downward to a bottom portion* and wherein the downwardly extending arm of the rear hanger includes (1) another top portion extending downward to *a movable bottom portion*. Further, *Tardoskegyi* does not teach or otherwise suggest that the hanging tool support assembly includes a tool support base plate having a means to

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secure a tool wherein *the tool support base plate is attached to the bottom portion of the front hanger and to the movable bottom portion of the rear hanger.*

Rather, *Tardoskegyi* discloses:

Along each side of the trough 12, there are provided hangers, each generally indicated at 38 for detachable engagement with respective ends of respective ones of the support members 18 in a manner yet to be explained.

Each of the hangers 38 includes at its upper end a generally horizontal arm 39 which is integrally formed with an annular collar 40 and which includes a threaded end portion 41 which can be passed through an opening 42 provided in a bracket 43 suitably secured to, for example, by welding, and depending from an overhead support member 44. A nut 45 screws onto the threaded end portion 41 of the arm 39 pivotally to secure the hanger 38 in position. It will be noted from FIG. 4 that the hanger 38 can be pivoted as indicated by the arrow A about an axis essentially corresponding to the longitudinal axis of the arm 39 and which axis is essentially parallel to the longitudinal direction of the trough 12.

Each hanger 38 also comprises an upstanding or generally vertical leg 48 formed with a threaded lower end portion 49 which is dimensioned so as to be received in the elongated slots 30 and 33 in the box channel end portion of a respective one of the support members 18. Upper and lower locking members or nuts 51 and 52 are screwed onto the threaded end portion 49 of each leg 48 so that, after pivoting the hanger 38 into the solid line operative position shown for the left-hand hanger 38 in FIG. 4, those nuts can be tightened to retain the leg in position so that it extends through the slots 30 and 33, the aforementioned upset end portions 36 of the flanges 31 and 32 serving to minimize the risk of accidental disengagement of the hanger 38 from that support member 18.

The aforementioned horizontal arm 39 of the hanger 38 is integrally formed as an extension of an upper limb of a *generally horizontal U-shaped intermediate portion* generally indicated at 54 of the hanger 38 and which includes a base web 55 and a lower limb 56, that lower limb 56 being integrally formed with the upper end of the leg 48 through an elbow 57.

Having described the structure of the assembly shown in the accompanying drawings, the manner of use of that assembly will now be briefly summarized.

To install the assembly, the hangers 38 are first loosely secured in the brackets 43 using the nuts 45 in the manner already described. The trough 12 with the supporting members or channel members 18 previously riveted thereto is then

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raised into position and the hangers 38 are pivoted so that their legs 48 are received in the aligned slots 30 and 33 in the ends of respective ones of the transverse support members 18. The nuts 51 and 52 are then tightened and, after tightening the nuts 45 on the threaded end portions 41 of the arms 39, the installation of the assembly is complete.

Another important advantage of the system shown in the accompanying drawings is that, by adjusting the nuts 51 and 52 along the threaded lower portions 49 of the hangers 38, the vertical position of the cable trough 12 can easily be adjusted.

As a result of the pivotal mounting of the hangers 38, those hangers can also, if desired, when not in use, be pivoted upwardly against the overhead support member 44 for possible future use. It is not necessary to remove the hangers from the overhead support.

U.S. Patent No. 3,960,350, col. 3, line 30 thru col. 4, line 51.

Consequently, the hangers disclosed in *Tardoskegyi* do not remote teach or otherwise suggest the limitation asserted by Examiner Wood – that is, *Tardoskegyi* does not teach or otherwise suggest a tool support base plate that includes a means to secure a tool and that is attached to the bottom portion of the front hanger and to the movable bottom portion of the rear hanger. As disclosed in *Tardoskegyi*, the nuts 51 and 52 are unique – that is, nut 51 is not part of nut 52. Rather, each nut 51 and 52 move along a threaded portion 49 of the leg 48. As described in *Tardoskegyi*, “[u]pper and lower locking members or nuts 51 and 52 are screwed onto the threaded end portion 49 of each leg 48 so that, after pivoting the hanger 38 into the solid line operative position shown for the left-hand hanger 38 in FIG. 4, those nuts can be tightened to retain the leg in position so that it extends through the slots 30 and 33, the aforementioned upset end portions 36 of the flanges 31 and 32 serving to minimize the risk of accidental disengagement of the hanger 38 from that support member 18.” *Id.*

Furthermore, *Tardoskegyi* does not teach or otherwise suggest a hanging tool support assembly that includes a pair of inverted, parallel J-shaped hangers that include a front hanger and a rear hanger, each hanger includes a free end and a downwardly extending arm

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substantially parallel to the free end wherein the downwardly extending arm of the front hanger includes a top portion extending downward to a vertically adjustable middle portion that extends downward to a bottom portion and wherein the downwardly extending arm of the rear hanger includes (1) another top portion extending downward to a movable bottom portion.

In regards to dependent claims 18, 20, and 21, *Flower* and/or *Atchley* do not cure the deficiencies of *Witter* and *Tardoskegyi* as discussed above in reference to independent claim 17. That is, the combination of the cited art does not disclose or otherwise suggest a hanging tool support assembly that includes a pair of inverted, parallel J-shaped hangers having a front hanger and a rear hanger, each hanger includes a free end and a downwardly extending arm substantially parallel to the free end wherein the downwardly extending arm of the front hanger includes a top portion extending downward to a vertically adjustable middle portion that extends downward to a bottom portion and wherein the downwardly extending arm of the rear hanger includes another top portion extending downward to a movable bottom portion and wherein the hanging tool support assembly further includes a tool support base plate having a means to secure a tool, and the tool support base plate is attached to the bottom portion of the front hanger and to the movable bottom portion of the rear hanger. See above discussion of *Witter* and *Tardoskegyi* as well as U.S. Patent No. 2,161,782 and U.S. Patent Application No. 2003/0025056A1. The Assignee, then, respectfully asks Examiner wood to remove the § 103 rejections and to allow the pending claims.

CONCLUSION

All of the objections and rejections have been overcome. Further, none of the references cited by Examiner Wood, alone or in combination, disclose or suggest the claimed invention. Therefore, Assignee respectfully solicits a Notice of Allowance for all pending claims (claims 17-21).

Furthermore, in regards to claim 17, Assignee respectfully asserts that the USPTO fails to satisfy MPEP § 2143. The USPTO fails to suggest, identify, and/or otherwise explain that all the

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claimed limitations are taught or suggested by the cited art. This rejection, then, is improper and must be withdrawn. *See also*, MPEP § 706.02. Furthermore, maintaining this rejection is a violation of due process. If the Office wishes to factually support this rejection, then another office action is required. This other office action must follow the requirements of MPEP §§ 2131 and 2143. Further, this other office action also cannot maintain the rejection — this other office action may only properly present the reasons for the rejection. Further, once the Office properly follows MPEP §§ 2131 and/or 2143 and properly supports a rejection, the Assignee must be given another opportunity to rebut the rejection. Any other action is a violation of due process.

AUTHORIZATION FOR 2 MONTH EXTENSION OF TIME
& FOR PAYMENT OF ADDITIONAL FEES

Assignee respectfully requests an additional two month extension of time fee for the Amendment & Response to the July 6, 2005 Office Action faxed to the USPTO Central Fax Number (571-273-8300) on November 16, 2005.

Description of Fee	Amount
Two Month Extension of Time Fee	\$450.00
Total	\$450.00

The Assignee, therefore, includes a Credit Card Payment Form PTO-2038 for \$450.00. If there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

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If the Office has any questions, the Office is invited to contact the undersigned at (757)
253-5729 or bambi@wzpatents.com.

Respectfully submitted,



Bambi F. Walters, Reg. No. 45,197
Attorney for Assignee
PO Box 5743
Williamsburg, VA 23188
Telephone: 757-253-5729

Date: 11/16/05